

### Article 3: Supplemental Development Regulations

#### Division 7: Affordable Housing Density Bonus Regulations

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

##### §143.0710 Purpose of Affordable Housing Density Bonus Regulations

The purpose of these regulations is to provide increased residential densities to developers who guarantee that a portion of their residential *development* will be available to *low income*, *very low-income*, or senior households. The regulations are intended to materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities for *low income*, *very low-income*, and senior households throughout the City. It is intended that the affordable housing *density* bonus and any additional development incentive be available for use in all residential developments, using criteria and standards provided in the Progress Guide and General Plan, as defined by the San Diego Housing Commission. It is also intended that these regulations implement the provisions of California Government Code Sections 65915 through 65918.

*(Added 12-9-1997 by O-18451 N.S.; amended 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)*

[Editors Note: This section only applies outside of the Coastal Overlay Zone. For the corresponding regulations (Purpose of Affordable Housing Density Bonus Regulations) within the Coastal Overlay Zone, refer to Land Development Code Section 143.0710, added by City Council on December 9, 1997 by O-18451.]

##### §143.0715 When Affordable Housing Density Bonus Regulations Applies

- (a) This division applies to any residential *development* of five or more dwelling units where an *applicant* proposes *density* beyond that permitted by the applicable zone in exchange for a portion of the total dwelling units in the development being reserved for *low* or *very low-income* households or for senior citizens or qualified residents through a written agreement.
- (b) An *applicant* proposing *development* as provided in Section 143.0715(a) shall be entitled to a *density* bonus as provided in Sections 143.0720 and 143.0730 and may be granted an additional development incentive as provided in Section 143.0740.

*(Added 12-9-1997 by O-18451 N.S.; amended 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)*

[Editors Note: This section only applies outside of the Coastal Overlay Zone. For the corresponding regulations (When Affordable Housing Density Bonus Regulations Applies) within the Coastal Overlay Zone, refer to Land Development Code Section 143.0715, added by City Council on December 9, 1997 by O-18451.]

**§143.0720 Affordable Housing Density Bonus Agreement**

- (a) An *applicant* shall be entitled to a *density* bonus for any residential *development* for which an agreement is entered into by the *applicant* and the Chief Executive Officer of the San Diego Housing Commission as provided in Section 143.0720(b).
- (b) The *density* bonus agreement shall include the following provisions:
  - (1) With respect to rental housing affordable units:
    - (A) At least 20 percent of the pre-bonus units in the *development* will be affordable, including an allowance for utilities, to *low-income* households at a rent that does not exceed 30 percent of 60 percent of area median income, as adjusted for assumed household size; or
    - (B) At least 10 percent of the pre-bonus units in the *development* will be affordable, including an allowance for utilities, to *very low-income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for assumed household size; or
    - (C) At least 50 percent of the total units will be available to senior citizens or qualifying residents as defined under California Civil Code Section 51.3.
  - (2) With respect to “for sale” housing affordability shall be determined based on prevailing underwriting standards of mortgage financing available for the *development*, which shall include a forgivable second, silent mortgage, as administered by the Housing Commission. At least 20 percent of the pre-bonus units in the development shall be available to *low-income* purchasers or 10 percent of the pre-bonus units shall be available to *very low-income* purchasers or at least 50 percent of the pre-bonus units in the *development* shall be available to senior citizens

or qualifying residents as defined under California Civil Code Section 51.3.

- (3) The affordable units will remain available and affordable as provided in Section 143.0720 for a period of at least 30 years if an additional development incentive is granted to the *applicant* as provided in Section 143.0740 or 10 years if an additional development incentive is not granted. If an *applicant* does not request an additional development incentive, the *applicant* shall submit a pro forma analysis for the Chief Executive Officer of the Housing Commission to document project feasibility.
- (4) The affordable units shall be designated units which are comparable in bedroom mix and amenities to the market-rate units in the *development* and are dispersed throughout the *development*.
- (5) Provision shall be made for certification of eligible tenants and purchasers, annual certification of property owner compliance, and payment of a monitoring fee, as adjusted from time to time, for monitoring of affordable unit requirements.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

[Editors Note: This section only applies outside of the Coastal Overlay Zone. For the corresponding regulations (Affordable Housing Density Bonus Agreement) within the Coastal Overlay Zone, refer to Land Development Code Section 143.0720, added by City Council on December 9, 1997 by O-18451.]

#### **§143.0730 Density Bonus Provisions**

A residential *development* proposal requesting an affordable housing *density* bonus is subject to the following:

- (a) The *development* shall be permitted a *density* bonus of the amount of units requested by the *applicant*, up to a total project dwelling unit count of 125 percent of the units permitted by the *density* regulations of the applicable base zone.
- (b) Where the applicable zone requires that each *lot* be occupied by no more than one dwelling unit, the *development* requires a Site Development Permit. If any deviation from the development regulations of the applicable zone is proposed, a Planned Development Permit is required.

- (c) If the *premises* is located in two or more zones, the number of dwelling units permitted in the *development* is the sum of the dwelling units permitted in each of the zones. Within the *development*, the permitted number of dwelling units may be distributed without regard to the zone boundaries.
- (d) Where the *development* consists of two or more specifically identified parcels, whether contiguous or noncontiguous, the maximum number of dwelling units permitted on each parcel property is calculated based on the area of that property. Within the *development*, if any portion of the *density* is to be transferred between two or more separate parcels, the regulations of Section 143.0750 apply.
- (e) Where the *development* consists of two or more noncontiguous parcels lying within two or more community planning areas, the dwelling units reserved at levels affordable by *low-income* or *very low-income* households shall be distributed among community planning areas in the same proportion as the total number of dwelling units constructed within the *development*.

(Added 12-9-1997 by O-18451 N.S.; amended 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)

[Editors Note: This section only applies outside of the Coastal Overlay Zone. For the corresponding regulations (Density Bonus Provisions) within the Coastal Overlay Zone, refer to Land Development Code Section 143.0730, added by City Council on December 9, 1997 by O-18451.]

#### **§143.0740 Additional Development Incentive for Affordable Housing**

In accordance with the provisions of Government Code Section 65915, the City may grant a development incentive in addition to the 25 percent density bonus. The additional development incentive may consist of the following:

- (a) A density bonus of more than 25 percent;
- (b) A financial incentive consisting of:
  - (1) Fee reductions or deferrals as authorized for affordable housing in the Municipal Code; or
  - (2) Direct financing assistance from the Housing Commission, Redevelopment Agency, or other public funds, if authorized by the applicable agency on a case-by-case basis, or

- (c) A deviation from applicable *development* regulations of the underlying zone pursuant to Section 143.0750.

(“Affordable Housing Provisions” added 12-9-1997 by O-18451 N.S.; repealed and “Additional Development Incentive for Affordable Housing” added 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)

[Editors Note: This section only applies outside of the Coastal Overlay Zone. For the corresponding regulations (Affordable Housing Provisions) within the Coastal Overlay Zone, refer to Land Development Code Section 143.0740, added by City Council on December 9, 1997 by O-18451.]

### **§143.0750 Deviation to Allow for Additional Development Incentive**

An applicant may request a deviation from the applicable development regulations as an additional development incentive for affordable housing pursuant to a Site Development Permit decided in accordance with Process Four provided that the *findings* in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(1) are made.

(“Transfer of Bonus Density Units” added 12-9-1997 by O-18451 N.S.; repealed and “Deviation to Allow for Additional Development Incentive” added 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)

[Editors Note: This section only applies outside of the Coastal Overlay Zone. For the corresponding regulations (Transfer of Bonus Density) within the Coastal Overlay Zone, refer to Land Development Code Section 143.0750, added by City Council on December 9, 1997 by O-18451.]

### **§143.0760 Deviations from Density Bonus and Affordable Housing Provisions**

- (a) A deviation from the provisions of either Section 143.0730 or Section 143.0740 may be requested in accordance with a Site Development Permit and shall require that the *findings* in Section 126.0504(m) be made.
- (b) Deviations may only be considered as follows:
- (1) An increase in the affordable housing density bonus provisions of Section 143.0730(a) and/or decrease in the affordable housing provisions of Section 143.0740(a), may be granted where the *development* provides for the inclusion of dwelling units affordable by persons of *very low income*. The total *density* bonus shall not result in a *development* containing more than 150 percent of the units permitted by the *density* regulations of the base zone nor shall the affordable

housing requirement provide that less than 10 percent of the total *development* be affordable by persons and *families* of *very low income*.

- (2) An increase in the affordable housing density bonus provisions of Section 143.0730(a), and/or decrease in the affordable housing provisions of Section 143.0740(a), may be granted where the *development* is located within a census tract where the median household income exceeds 120 percent of the citywide median household income as measured by the most recent U.S. Bureau of Census survey and the *development* provides for the inclusion of dwelling units affordable by persons of *low income*. The total *density* bonus shall not result in a *development* containing more than 150 percent of the units permitted by the *density* regulations of the applicable zone nor shall the affordable housing requirement provide that less than 10 percent of the total *development* be affordable by persons and *families* of *low income*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)